

House Bill 1553

By: Representatives Franklin of the 43<sup>rd</sup>, Rice of the 51<sup>st</sup>, Reese of the 98<sup>th</sup>, Hembree of the 67<sup>th</sup>, Parsons of the 42<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue, so as to require state licenses for adult video stores; to provide for definitions of certain terms; to establish license fees; to provide penalties; to provide for transferability of licenses under certain conditions; to provide for powers, duties, and authority of the state revenue commissioner; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue, is amended by adding a new Chapter 19 to read as follows:

"CHAPTER 19

48-19-1.

As used in this chapter, the term:

(1) 'Adult video' means photographs, films, motion pictures, movies, video cassettes or reproductions, digital versatile disc, digital video disc, slides, or other visual representations, the central theme of which depicts or describes sexual activities.

(2) 'Adult video store' means a commercial establishment which:

(A) Holds itself out to be such a business; or

(B) Offers for sale or rent for any form of consideration any adult videos.

(3) 'Adult video title' means a specific movie or copies of a specific movie whether such movies are rented for viewing outside such establishment or are rented for viewing inside such establishment through a vending or other arrangement.

(4) 'Commissioner' means the state revenue commissioner of the Georgia Department of Revenue.

(5) 'Department' means the Georgia Department of Revenue.

(6) 'Licensed premises' means any premises in which adult videos are sold or rented.

(7) 'Licensee' means the individual to whom a license is issued or, in the case of partnership or corporation, all partners, officers, and directors of the partnership or corporation.

(8) 'Location' means any physical structure, place, or premises at which adult videos are sold or rented.

(9) 'Person' means any individual, firm, partnership, cooperative, corporation, company, association, nonprofit membership corporation, joint venture, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasipublic.

(10) 'Sexual activities' means those activities described in subparagraphs (A) through (I) of paragraph (3.1) of Code Section 49-5-40 and any sexual acts which are prohibited by law.

48-19-2.

(a) Whenever any county or municipality permits or licenses an adult video store, the person who owns the adult video store must also obtain a state license to sell or rent adult videos.

(b)(1) The annual state license fees for such license shall be assessed for each particular adult video title the adult video store sells or rents, and shall be as follows:

(1) Ten thousand dollars for each specific adult video title the adult video store sells; and

(2) Five thousand dollars for each specific adult video title the adult video store rents.

These amounts shall be assessed by the state due to the costs of the administration of this chapter.

(c) There shall be no limit imposed on the number of adult video titles sold or rented by the licensee at each adult video store location.

(d) Each location must have a separate license.

(e) Each adult video store shall maintain a current list with the department of all adult video titles that such adult video store offers for sale or rental. As adult video titles are obtained and offered for sale or rental, the adult video store shall have ten days to update its list on file with the department and pay the requisite license fee pursuant to subsection (b) of this Code section. It shall be unlawful for an adult video store to offer for sale or

1 rental any adult video title that is not on the adult video store's list on file with the  
2 department.

3 48-19-3.

4 (a) The applicant must be 18 years of age or older to apply for a license under this chapter.

5 (b) Each person holding a license issued pursuant to this chapter shall display the license  
6 prominently at all times on the premises for which the license is issued.

7 (c) Each annual license issued pursuant to this chapter shall be for the calendar year. The  
8 fees paid for the license shall be assessed for the entire calendar year and shall not be  
9 prorated or otherwise apportioned.

10 (d) Each licensee shall keep and preserve, as prescribed by the commissioner, records of  
11 all adult videos sold, purchased, leased, or rented by him or her. The records shall be kept  
12 for a period of three years from the date of sale or rent and shall at all times be open to  
13 inspection by the commissioner or any authorized agent or employee of the commissioner.

14 (e) The commissioner may authorize by rule the disposal of records maintained pursuant  
15 to subsection (d) of this Code section, prior to the expiration of the specified three-year  
16 period, when he or she is satisfied as to their contents or otherwise determines that the  
17 maintenance of the records is no longer necessary.

18 48-19-4.

19 (a) No state license provided for pursuant to this chapter shall be transferable, except as  
20 otherwise provided in this Code section.

21 (b) In case of the death of the licensee, the establishment shall be allowed to continue to  
22 operate under the license of the licensee for a period of 30 days from the date of death or  
23 until approval of a new license, whichever occurs first; provided, however, that the  
24 department must be notified of the licensee's death within ten days of the death or the  
25 license shall automatically terminate on the eleventh day following the death of the  
26 licensee.

27 (c) If a license is surrendered or a licensee severs his or her association with the licensed  
28 establishment, the establishment may continue to operate under the licensee's license for  
29 a period of 30 days from the date of surrender, or from the date determined to be the date  
30 of severance; provided, however, that the department must be notified of the change within  
31 ten days of the severance or the license shall automatically terminate on the eleventh day  
32 following the date of the severance. Upon issuance of a new license, the authorization to  
33 sell under the previous license shall be revoked by operation of law.

(d) Nothing in this Code section shall prohibit one or more of the partners in the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This subsection shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license; nor shall it prohibit transfers of stock which do not result in any person increasing stock holdings to a total of 10 or more percent of any class of corporate stock, or any other entity having a financial interest in the entity.

(e) Should a transfer of location be approved by the department, with no change of ownership of the business, the license fees paid for the old location shall be applied to the new location.

(f) Except as provided in this Code section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued under this chapter automatically.

(g) Violation of this Code section shall result in revocation of the license being used and a civil penalty of \$100,000.00 each on the new ownership and the old ownership, and no license will be issued to the old or the new owner for one year from the date of the violation.

48-19-5.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor.

48-19-6.

The commissioner shall provide for the conducting of periodic compliance audits by the department to verify compliance with the requirements of this chapter.

48-19-7.

The commissioner shall be authorized to develop any forms or applications and to provide by rules or regulations for the proper administration of this chapter."

## **SECTION 2.**

This Act shall become effective July 1, 2006.

## **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.